



Disciplinary Orders and Regulatory Decisions

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DISCIPLINARY COMMITTEE TRIBUNAL ORDERS

1. Mr Robert Neil Aspinall [FCA] of
Georgetown, Cayman Islands

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 24 October 2018.

Type of Member Member

Terms of complaint

1. Mr Robert Aspinall FCA stole the following sums:
 - US\$50,414.20 from 'A' and 'B' Ltd on 6 November 2012 and
 - US\$445,000 from 'C' Ltd between 1 May 2013 and 21 August 2013.
2. Mr Robert Aspinall FCA made the following false documents:
 - an advisory agreement, on or about 6 November 2012, purporting to be executed on behalf of 'B' Ltd and signed by Mr 'D' and
 - a share agreement, on or about 20 March 2013, purporting to be executed on behalf of 'E' Ltd and signed by Mr 'F'.
3. Mr Robert Aspinall FCA used stolen funds as follows:
 - US\$200,000, for a deposit on the purchase of a property on 11 July 2013 and
 - US\$50,536.58, for the purchase of a BMW X3 on 21 October 2013.

Hearing date 24 October 2018

Previous hearing date(s) N/A

Pre-hearing review or final hearing Final Hearing

Complaint found proved Yes

All heads of complaint proven Yes

Sentencing order Exclusion

Procedural matters and findings

| | |
|---|--|
| Parties present | Mr Robert Aspinall was not present. |
| Represented | Mr Aspinall was not represented at the hearing but the Investigation Committee had at all material times been corresponding with his solicitors who were aware of the hearing. The IC was represented by Mrs Silpa Tozar. |
| Hearing in public or private | The hearing was in public. |
| Decision on service | In accordance with regulations 3-5 of the Disciplinary Regulations, the tribunal was satisfied to service. |
| Documents considered by the tribunal | The tribunal considered the documents contained in the Investigation Committee's (IC's) bundle (together with an email exchange between 28 August and 2 October 2018 between Mrs Tozar and Mr Aspinall's solicitors. |

The IC's case

1. By an Order of the Grand Court of the Cayman Islands (Criminal Side) dated 1 August 2016, the Defendant was convicted of the following offences: (i) theft, contrary to section 241 of the Penal Code (2010 Revision) because the Defendant stole USD50,414.20 from 'A' and 'B' Ltd on 6 November 2012 within the jurisdiction of the Cayman Islands; (ii) another count of theft, because the Defendant stole USD445,000 from 'C' Limited between 1 May 2013 and 21 August 2013.
2. Pursuant to the same Order, the Defendant was convicted of the following further offences: (iii) forgery contrary to section 285 of the said Penal Code because on or about 6 November 2012, within the jurisdiction of the Cayman Islands, the Defendant made a false document namely an Advisory Agreement purporting to be executed for and on behalf of 'B' Ltd and signed by Mr 'D'.
3. Pursuant to the same Order, the Defendant was convicted of a further offence of forgery because on or about 20 March 2013, within the jurisdiction of the Cayman Islands, he made a false document namely a share agreement, purporting to be executed for and on behalf of 'E' Ltd and signed by Mr 'F'.
4. The stolen funds were used to make a deposit on the purchase of a property on 11 July 2013 and for the purchase of a motor car on 21 October 2013.
5. Also on 1 August 2016, The Defendant was sentenced to a term of imprisonment in the Cayman Islands of three and a half years with time in custody to be deducted. He was ordered to make compensation in the sum of USD495,414.20.
6. Disciplinary Bye-Law (DBL) 7.1 provides that the fact that a Defendant has pleaded guilty or been found guilty before a Court outside England & Wales of an offence corresponding to one which is indictable in England & Wales shall be conclusive evidence of the commission by him of such an act or default mentioned in DBL 4.1(a).

7. The offences of which the Defendant was found guilty in the Cayman Islands correspond to indictable offences in England & Wales (theft and forgery). This is conclusive evidence of a breach of DBL 4.1(a).

Issues of fact and law

8. The tribunal found the complaint proved by virtue of DBL 7.1.

Conclusions and reasons for decision

9. The Defendant pleaded guilty in the Cayman Islands to four serious offences of dishonesty. This is obviously conduct which is not acceptable to ICAEW.

Matters relevant to sentencing

10. The tribunal considered the *Guidance on Sanction* and saw no reason to depart from that. It also was satisfied that no lesser penalty than the one imposed was appropriate.
11. Mitigating factors are (i) the Defendant's clean disciplinary record (ii) his early guilty pleas (iii) full and early repayment of all misappropriated funds together with a contribution towards the costs of the prosecution.
12. Aggravating factors are (i) the extent of the dishonesty and (ii) the repeated nature of it.

Sentencing Order

Exclusion.

Decision on publicity

Publication with name.

Chairman

Mr Ron Whitfield

Accountant Member

Mr Ian Walker

Non Accountant Member

Mr Graham Humby

Legal Assessor

Mr Dominic Spenser Underhill

035395

**2. Miss Susan Anne Moon ACA of
Sevenoaks, United Kingdom**

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 11 December 2018

Type of Member Member

Terms of complaint

Between 23 September 2016 and 26 October 2017 Miss Susan Anne Moon ACA failed to submit her CPD records for the year ended 31 October 2015 contrary to Principal Bye-law 56c.

Miss Susan Anne Moon ACA is therefore liable to disciplinary action under Disciplinary Bye-law 4.1c 4.1c states.....If he has committed a breach of the bye-laws or any regulations or has failed to comply with any order, direction or requirement made, given or imposed under them.

Hearing date 11 December 2018

Previous hearing date(s) None

Pre-hearing review or final hearing Final Hearing

Complaint found proved Yes

All heads of complaint proven Yes

Sentencing order (i) Severe Reprimand;
(ii) financial penalty of £5,000;
(iii) the Respondent is to pay £2,439.50, the costs of the ICAEW

Procedural matters and findings The Tribunal was satisfied that the Respondent had been served with notice of the hearing. Pursuant to Disciplinary Bye-law 20.4, the Tribunal exercised its discretion to hear the complaint in the absence of the Respondent, considering it in the circumstances fair, just and proportionate so to do

Parties present The Respondent did not appear nor was she represented

Represented The Investigations Committee was represented by Ms Victoria Morgan

Hearing in public or private The hearing was in public

Decision on service In accordance with regulations 3-5 of the Disciplinary Regulations, the tribunal was satisfied to service

Documents considered by the tribunal The tribunal considered the documents contained in the Investigation Committee's (IC's) bundle.

The Investigation Committee's (IC's) case

1. Regulation 2 of the Continuing Professional Development (CPD) Regulations provides as follows:
'Members shall supply any information requested under Principal Bye-law 56 (whether in the Annual Members Profile or otherwise) promptly and in accordance with the terms specified. Information includes any evidence requested to demonstrate compliance with Continuing Professional Development. Such evidence may include records, documents and other information whether in hard copy or electronic form.'
2. Each member is required to certify annually that they have complied with CPD regulations. A sample of members are selected each year and under Principal Bye-law 56c are requested to provide their CPD records to evidence their compliance.
3. The Respondent was selected to provide her CPD records for the year ended 31 October 2015. Despite many attempts to obtain that evidence, neither the evidence nor any communication whatsoever has been received from her.
4. The chronology prepared for the proceedings demonstrates that between 31st August 2016 and 31st July 2017 a total of 19 communications were made to the Respondent. These included letters, emails, and telephone messages. Four of the letters, given there had been no response to earlier communications, were sent by recorded delivery to both primary and secondary addresses, and were signed for. Notwithstanding the efforts made by the ICAEW to obtain the evidence to which it was entitled, no response has ever been received nor explanation given for the failure to respond.

The Defence

5. The Respondent has not engaged with the ICAEW nor with the Tribunal, and has provided no defence to the complaint raised against her.

Issues of fact and law

6. The issue for the Tribunal is whether, on the evidence provided, it is satisfied that the Respondent failed to submit her CPD records for the year ended 31 October 2015 contrary to Principal Bye-law 56c.

Conclusions and reasons for decision

7. We are satisfied that the Respondent did fail to submit her CPD records for the year ended 31 October 2015, despite the best efforts of the ICAEW to obtain them. There was a blanket failure on the part of the Respondent to comply with any request, for reasons which the Respondent has not attempted to explain despite having been given the opportunity to do so. We therefore find the complaint proved.

Matters relevant to sentencing

8. The Tribunal considered the *Guidance on Sanctions* at paragraph 7d. This was a serious failure by the Respondent. There were aggravating features, being the repeated failure to respond to requests for evidence, and the refusal or neglect to engage with the ICAEW or provide records despite 19 attempts to obtain those records or to obtain a response. The mitigating features were that there were no adverse financial or other consequences to clients or third parties so far as we are aware. The Respondent had no disciplinary record.
9. No financial or other information had been supplied by the Respondent despite a written request.
10. After due consideration, we consider a fair and proportionate sentence to be a Severe Reprimand and a financial penalty of £5,000. In addition, we order that the Respondent should pay the costs of the ICAEW, being the sum of £2,439.50.

Sentencing Order

11. (i) Severe Reprimand; (ii) financial penalty of £5,000; (iii) costs of £2,439.50.

Decision on publicity

12. Publication with name.

Non Accountant Chairman
Accountant Member
Non Accountant Member

Richard Jones QC
Mr Mike Ranson FCA
Mr Nigel Dodds

038444

**3. Mr Kenneth MacGregor Munn [FCA] of
Cardiff, United Kingdom**

A Tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 12 December 2018

Type of Member Member

Terms of complaint

Mr Kenneth Munn FCA, while a director of 'A' Ltd (formerly 'B' Ltd), 'C' Ltd, 'D' Ltd and 'E' Ltd, demonstrated by his behaviour that he was unfit to be a director of a company. Full particulars of the matters alleged to have rendered him unfit are set out in the 'matters of unfitness' in the schedule to the undertaking given by Mr Kenneth Munn FCA under the Company Directors Disqualification Act 1986 and signed by him on 8 June 2017.

Mr Kenneth MacGregor Munn is therefore liable to disciplinary action under Disciplinary Bye-law 4.1a.

4.1.a states.... If in the course of carrying out professional work or otherwise he has committed any act or default likely to bring discredit on himself, the Institute or the profession of accountancy

Hearing date 12 December 2018

Previous hearing date(s) None

Pre-hearing review or final hearing Final Hearing

Complaint found proved Yes

All heads of complaint proven Yes

Sentencing order Exclusion

Procedural matters and findings

Parties present Mr Kenneth Munn was present.

Represented Mr Munn represented himself. The Investigation Committee (IC) was represented by Mrs Silpa Tozer.

Hearing in public or private The hearing was in public.

Decision on service In accordance with regulations 3-5 of the Disciplinary Regulations, the tribunal was satisfied to service.

Documents considered by the tribunal The Tribunal considered the documents contained in the Investigation Committee's (IC's) bundle (together with Mr Munn's Regulation 13 Answers and two notes he had prepared on mitigation.

Preliminary Matter

Mary Kelly (Chair) and Graham Humby (Panel Member) disclosed at the start of the hearing that they had sat on the ICAEW's disciplinary panel which heard a similar (but not identical) complaint against Mr Munn's former co-director. No objection was made to them sitting on the current panel.

The IC's case

1. The Defendant was, until 18 July 2017, a co-director of the companies specified in the complaint.

'A' Ltd

2. Between 1 February 2005 – 20 April 2006, the Defendant caused or allowed this company
 - 2.1 not to file its corporation tax return for the year ended 30 April 2004. That return was due by 30 April 2005;
 - 2.2 to pay corporation tax assessed at £18,620 when he knew or ought to have known that the true amount due by 31 January 2005 was £201,348;
 - 2.3 between 22 August 2011 – 6 September 2012, to trade to the detriment of HMRC in respect of PAYE and NIC and Student Loan deduction contributions resulting in an estimated liability to HMRC of £482,355;

'C' Ltd

3. Between at least 22 August 2012 – 30 April 2013, the Defendant caused this company to trade to the detriment of HMRC in respect of PAYE and NIC and Student Loan deduction contributions resulting in an estimated liability to HMRC of £238,648.

'D' Ltd

4. Between at least 22 May 2012 – 5 January 2013, the Defendant caused this company to trade to the detriment of HMRC in respect of PAYE and NIC and Student Loan deduction contributions resulting in an estimated liability to HMRC of £33,985.

'E' Ltd

5. From at least 22 May 2010, the Defendant caused this company to trade to the detriment of HMRC in respect of PAYE and NIC and Student Loan deduction contributions resulting in an estimated liability including interest and penalties to HMRC of £523,628.

Disqualification Undertaking

6. The Secretary of State for Business, Energy and Industrial Strategy commenced proceedings against these companies. Those proceedings ceased on 8 June 2017 when the Secretary of State accepted from the Defendant (and his co-director) written disqualification undertakings dated 8 June 2017, to not to be director of a company for a period of 7 years, in accordance with Section 1A of the Company Directors Disqualification Act 1986.

7. Disciplinary Bye-law (DBL) 7.2b provides that the fact that a respondent to disciplinary proceedings has had a disqualification order made against him or has given a disqualification undertaking which has been accepted by the Secretary of State under the Company Disqualification Act 1986 shall for the purposes of the disciplinary bye-laws be “*conclusive evidence of the commission by him of such an act or default as is mentioned in*” DBL 4.1(a).
8. The Defendant is therefore liable to disciplinary action under DBL 4.1(a).

The Defence

9. The Defendant denied the complaint. He admitted giving the disqualification undertakings and did not seek to attack the effect of DBL 7.2b.
10. However, he stated that the process of obtaining this (and similar undertakings) is unfair because while it has the appearance of a director exercising a choice with the opportunity of legal and professional advice, in reality it gives the director no real choice at all. This is because the alternative to such “voluntary” undertakings which is offered by the Secretary of State is litigation with potentially crippling financial consequences; those act as a deterrent.
11. In this case, the Defendant contested the proceedings brought by the Secretary of State. He also obtained legal advice. He gave the disqualification undertakings even though he did not accept the Matters of Unfitness which were alleged against him. Neither did he accept the figures of alleged loss offered by HMRC which were estimates only. He gave the undertakings because he had no real choice; the only opportunity to take issue with the allegations was in Court and he could not afford that or the risks associated with it.
12. The Defendant submitted that was not simply a self-serving assertion. The unfairness of the disqualification process, similar to which he was subject, has been criticised in Parliament and also in Court by Lord Hoffman.
13. In addition, the Defendant disclosed a copy of Counsel’s Opinion which he obtained on 13 September 2016. The opinion appears to be of the merits of the proceedings commenced by the Secretary of State. Counsel advised, in summary, that a defence of allegations made in respect of ‘A’ Ltd had a 40-45% chance of succeeding. A defence of allegations relating to the other companies had a 55% chance of success.
14. The Defendant also asserted that he had been given bad legal advice which was to give the undertakings. Moreover, he had been advised by the liquidator of the various companies that under solvent balance sheet conditions there was no risk of any unfitness as a director. IN his view, the companies were balance sheet solvent at the time the companies were put into liquidation.
15. He had taken legal advice, including consulting Counsel, by December 2016, but by the time he gave the undertakings in June 2017, he no longer had legal advice or representation.
16. The Defendant also stated that he had not been aware when he gave the undertakings of the existence of DBL7.2b and had he been so, he would not have given them.

Issues of fact and law

17. The existence of the undertakings referred to in the complaint was not in issue and there was no need to prove it. Neither was there any need to determine the effect of DBL 7.2b.

18. The issues of law to be determined were whether the Defendant's assertions that (i) he was pressured into giving the undertakings in the light of what was otherwise a meritorious defence to the proceedings, (ii) had been given bad legal advice to give the undertakings, (iii) should not have given the undertakings because he was unaware of the effect of DBL 7.2b, were defences in law.
19. The standard of proof is the balance of probabilities.
20. The tribunal found the complaint proved.

Conclusions and reasons for decision

21. There is no dispute that the Defendant gave to the Secretary of State disqualification undertakings to settle proceedings commenced against him regarding his fitness to be a company director.
22. There is also no dispute that those undertakings are conclusive evidence of a breach of DBL 4.1(a). In one obvious sense, that is as far as this matter extends.
23. However, although the Defendant is obliged to accept the coherence of this position, he defends himself on what appears to be three bases: (i) first, his undertakings were given without him believing they should be given because what is set out by way of factual background in the matters of unfitness are wrong; (ii) secondly, the Defendant relied on legal advice which was wrong when he agreed to give the undertakings; in fact, his defences were sound; (iii) thirdly, had he known about DBL 7.2(b) he would not have given the undertakings but taken the matter to Court.
24. The tribunal did not accept this defence for several reasons. First, DBL 7.2(b) is clear; the undertakings are conclusive evidence of professional misconduct under DBL 4.1(b).
25. Secondly, it is a corollary of accepting DBL 7.2(b) the tribunal has no power to go behind this conclusive evidence and revisit the circumstances in which the undertakings were given.
26. Thirdly, even if it had such power, there is no evidence that the Defendant has ever taken steps to revoke his undertakings for the reasons he now gives for (he says) wrongly making them. Those undertakings remain in full force and legal effect and are not challenged. It is not for the tribunal to seek to go behind them. Neither is it for the tribunal to determine whether the Defendant was unduly pressurised into giving the Undertakings or that the legal advice he says he was given was "bad".
27. The Tribunal has resisted the temptation to observe that even on the Defendant's Counsel's opinion, he was more likely than not to lose part of the case and the odds of winning the balance was about even. Counsel made it clear in his opinion that there were a number of variables, including evidence of fact and the performance of the Defendant as a witness, which may sway the odds. He was not providing an algorithm.
28. Fourthly, the fact that the Defendant now states that had he been made aware of DBL 7.2(b) he would not have given the undertakings is not a defence. It is an expression of regret. That is not a matter for the tribunal to determine.
29. The undertakings meant that the Defendant was disqualified as a director for seven years, which is a substantial amount of time. This is a serious matter and must be reflected in the sanction.

Matters relevant to sentencing

30. The Tribunal considered the *Guidance on Sanction* and saw no reason to depart from it. It was also satisfied that no lesser sanction than the one imposed was appropriate.
31. A mitigating factor was the Defendant's clean disciplinary record.
32. Aggravating factors are: (i) the length of the disqualification period; (ii) the sheer size of the companies' financial liabilities to HMRC and (iii) a strong impression given by the defendant that the circumstances he finds himself in are the faults of others and not himself. In this regard, (iv) he appears not to have much, or any, insight into his actions and; (v) he has expressed no remorse to the profession or the tax paying public for what has happened.
33. Moreover, of the two directors, the Defendant was more culpable for what has happened.

Sentencing Order

34. Exclusion
35. Costs in the sum of £5,000.

Decision on publicity

36. It was submitted that publication of this decision would have an unfair and adverse effect on the Defendant's son's career as a chartered accountant employed by the civil service where he works in a government department.
37. This submission was rejected. There was no evidence that publication of this decision would have such an effect, and the Defendant accepted that there was no evidence. The Defendant's disqualification is already a matter of public record.
38. Publication with name.

Non Accountant Chair

Mrs Mary Kelly

Accountant Member

Mr Jon Newell FCA

Non Accountant Member

Mr Graham Humby

Legal Assessor

Mr Dominic Spenser Underhill

041809

INVESTIGATION COMMITTEE CONSENT ORDERS

4. Mr Hugh Martin John Andrews ACA

Consent order made on 21 December 2018

With the agreement of Mr Hugh Martin John Andrews ACA of Maurecourt, France, the Investigation Committee made an order that he be reprimanded, fined £2,000 and pay costs of £1,455 with respect to a complaint that:

1. Between 31 January 2017 and 7 March 2018 Mr Hugh Andrews ACA failed to certify compliance with Continuing Professional Development requirements for the period 1 November 2015 to 31 October 2016 in breach of Principal Bye-Law 56c.
2. Between 31 January 2018 and 7 March 2018 Mr Hugh Andrews ACA failed to certify compliance with Continuing Professional Development requirements for the period 1 November 2016 to 31 October 2017 in breach of Principal Bye-Law 56c".

029933

5. Mr X

Consent order made on 21 December 2018

With the agreement of Mr X, of Worcester, United Kingdom, the Investigation Committee made an order that he be severely reprimanded, fined £4,200 and pay costs of £1,705 with respect to a complaint that:

Between 15 September 2008 and 21 July 2014, Mr X ACA engaged in public practice without holding a practising certificate contrary to Principal Bye-law 51a.

034590

6. RDP Newmans LLP

Consent order made on 21 December 2018

With the agreement of RDP Newmans LLP of Harrow, United Kingdom, the Investigation Committee made an order that the firm be reprimanded, fined £2,100 and pay costs of £1,480 with respect to a complaint that:

On 23 February 2011, RDP Newmans LLP issued an unqualified audit report on the financial statements of 'X' Limited for the year ended 30 June 2010, when the audit was not conducted in accordance with International Standard on Auditing (UK and Ireland) 500 'Audit evidence' in that the firm failed to obtain sufficient appropriate audit evidence in respect of:

- a) the appropriateness of petty cash transactions; and/or
- b) the appropriateness of bank transactions.

to be able to draw reasonable conclusions on which to base the audit opinion.

036756

7. Mrs Joanne Marie Malpass FCA

Consent order made on 21 December 2018

With the agreement of Mrs Joanne Marie Malpass FCA of Deal, United Kingdom, the Investigation Committee made an order that she be severely reprimanded, fined £2,100 and pay costs of £1,780 with respect to a complaint that:

Between 31 March 2015 and 12 April 2018, Mrs Joanne Malpass FCA engaged in public practice without a practising certificate, contrary to Principal Bye-law 51a.

041669

8. Mr Graeme Purvis ACA

Consent order made on 21 December 2018

With the agreement of Mr Graeme Purvis ACA of Welwyn, United Kingdom, the Investigation Committee made an order that he be reprimanded, fined £3,500 and pay costs of £4,468 with respect to a complaint that:

1. Mr Graeme Purvis ACA filed the accounts of 'X' Ltd for the period ended 30 December 2015 at Companies House when they had not been approved or signed by Mr 'Y', the sole director of the company.
2. Mr Graeme Purvis ACA submitted to HMRC the corporation tax return of 'X' Ltd for the period ended 30 December 2015 when it had not been approved or signed by Mr 'Y', the sole director of the company.
3. Mr Graeme Purvis ACA incorrectly prepared the corporation tax return of 'X' Ltd for the period ended 30 December 2015, as it showed a liability of £1,977.20 but the trial balance and accounts for the same period, also prepared by Mr Purvis, showed a liability of £799.
4. Between 9 May 2017 and 3 August 2018, Mr Graeme Purvis ACA has failed to respond to 'Z' Ltd's letter dated 23 February 2017 requesting the handover information in respect of Mr 'Y's personal tax affairs.

040848

9. Kirby and Haslam Limited

Consent order made on 21 December 2018

With the agreement of Kirby and Haslam Limited of King's Lynn, United Kingdom, the Investigation Committee made an order that the firm be severely reprimanded, fined £30,000 and pay costs of £10,168 with respect to a complaint that:

1. On 23 December 2013 Kirby and Haslam Ltd failed to comply with regulation 22 of the Clients' Money Regulations as the firm withdrew £686.40 from the client bank account towards payment of the fees due from 'X' Ltd when thirty days had not elapsed from the date of the delivery of the invoice nor had the amount been agreed in writing by the client.

2. On 23 October 2014 and 31 October 2014, Kirby and Haslam Ltd failed to comply with regulation 22 of the Clients' Money Regulations as the firm withdrew the following amounts from the client bank account towards payment of the following fees due from 'Y' Ltd when either thirty days had not elapsed from the date of the delivery of each invoice or the client had questioned the amount therein specified:
 - a. Invoice 12241 dated 29 August 2014 - £18,571.20 (issues with the work performed raised by the client on 22 October 2014); and/or
 - b. Invoice 12270 dated 10 October 2014 - £140.40 (thirty days not elapsed); and/or
 - c. Invoice 12398 dated 28 October 2014 - £2,134.80 (thirty days not elapsed).
3. On 23 October 2014 and 31 October 2014, Kirby and Haslam Ltd failed to comply with regulation 20h of the Clients' Money Regulations as the firm withdrew amounts totalling £5,169.60 from the client bank account, using funds held for 'Y' Ltd, to pay for invoices due from 'X' Ltd without written authority from 'Y' Ltd to use those funds.
4. On 11 August 2014 Kirby & Haslam Ltd issued an unqualified audit report on the financial statements of 'Y' Ltd for the year ended 31 December 2013 which stated that the financial statements had been properly prepared in accordance with International Financial Reporting Standards as adopted by the European Union when this was not the case as the accounts were not prepared in accordance with:
 - a. International Financial Reporting Standard 1 First Time Adoption of International Financial Reporting Standards as the required disclosures were not made within the financial statements; and/or
 - b. International Accounting Standard 38 Intangible Assets as certain expenses had been recognised as intangible assets when they did not meet the recognition criteria and no amortisation had been applied and patent expenses for a subsidiary company had not been correctly recognised as an intangible asset; and/or
 - c. International Accounting Standard 28 Accounting for Investments in Associates and Joint Ventures as an investment in 'Z' Ltd was not recognised as an asset of the group; and/or
 - d. International Accounting Standard 37 Provisions, Contingent Liabilities and Contingent Assets as a contingent asset of £348k was incorrectly recognised as a trade receivable.
5. On 11 August 2014 Kirby & Haslam Ltd issued an unqualified audit report on the financial statements of 'Y' Ltd for the year ended 31 December 2013 when the audit was not conducted in accordance with International Standard on Auditing (UK and Ireland) 500 Audit Evidence in that the firm failed to obtain sufficient appropriate audit evidence in order to draw reasonable conclusions in respect of:
 - a. intangible assets; and/or
 - b. investments; and/or
 - c. trade receivables; and/or
 - d. share premium.

027642

10. Mr Jonathan David Beck FCA

Consent order made on 21 December 2018

With the agreement of Mr Jonathan David Beck FCA of Liverpool, United Kingdom, the Investigation Committee made an order that he be reprimanded and pay costs of £2,524 with respect to a complaint that:

1. Mr Jonathan Beck FCA, in his role as Compliance Officer for Finance and Administration for 'X', permitted the provision of banking facilities through a client account in breach of Principle 8 of the Solicitors Regulation Authority Principles 2011 and Rule 14.5 of the Solicitors Regulation Authority Accounts Rules 2011.
2. Mr Jonathan Beck FCA, in his role as Compliance Officer for Finance and Administration for 'X', permitted withdrawals and transfers from the firm's client account in breach of Principles 4 and 8 of the Solicitors Regulation Authority Principles 2011 and Rule 20.3(b) of the Solicitors Regulation Authority Accounts Rules 2011.
3. Mr Jonathan Beck FCA failed to meet his obligations as Compliance Officer for Finance and Administration for 'X' under Rule 8.5(e)(i) Solicitors Regulation Authority Authorisation Rules 2011, to take all responsible steps to ensure that the firm and its managers and employees comply with any obligations imposed upon them under the Solicitors Regulation Authority Accounts Rules 2011.

036248

INVESTIGATION COMMITTEE FIXED PENALTY ORDERS

11. Mr Jonathan Kicks FCA

Penalty order made on 15 November 2018

Under Disciplinary Bye-law 14A the Investigation Committee has exercised its powers under delegation to consider this complaint by way of fixed penalty.

With the agreement of Mr Jonathan Kicks FCA, the Investigation Committee ordered that Mr Jonathan Kicks FCA, of Warwickshire, be reprimanded, and a fixed penalty of £700 representing a financial penalty of £1,000 to which a discount of 30% has been applied with respect to a complaint that:

Between 2 February 2017 and 17 October 2018 Mr Jonathan Kicks FCA, engaged in public practice without holding a practising certificate contrary to Principle Bye-law 51a

045478

12. Cowgill Holloway & Co

Penalty order made on 25 October 2018

Under Disciplinary Bye-law 14A the Investigation Committee has exercised its powers under delegation to consider this complaint by way of fixed penalty.

With the agreement of Cowgill Holloway & Co, the Investigation Committee ordered that Cowgill Holloway & Co, of Bury, United Kingdom, be reprimanded, and a fixed penalty of £3,008 representing a financial penalty equal to the affiliate fees saved of £4,298 to which a discount of 30% has been applied with respect to a complaint that:

1. Between December 1995 and 2 August 2007, Cowgill Holloway & Co failed to comply with Audit Regulation 2.02b in that they failed to ensure the following principals held audit affiliate status:
 - a) Mr X ;
 - b) Mr Y
2. Cowgill Holloway & Co failed to comply with regulations governing the use of the description 'Chartered Accountants', (being regulation 6 (until 18 June 2017) and regulation 12 (from 19 June 2017)) as the firm described itself as a firm of Chartered Accountants when not eligible to do so because they failed to ensure the following principals held affiliate status during the following periods:
 - a) Mr X between 3 August 2007 and 6 March 2018;
 - b) Mr Y between 3 August 2007 and 29 August 2016.

039009

13. A2E Industries Ltd

Penalty order made on 14 November 2018

Under Disciplinary Bye-law 14A the Investigation Committee has exercised its powers under delegation to consider this complaint by way of fixed penalty.

With the agreement of A2E Industries Ltd, the Investigation Committee ordered that A2E Industries Ltd, 1 Marsden Street, 2nd Floor, Manchester, M2 1HW, be reprimanded, and a fixed penalty of £700 representing a financial penalty of £1,000 to which a discount of 30% has been applied with respect to a complaint that:

Following a QAD visit in June 2008, A2E Industries Ltd confirmed 'Agreed and will [carry out and document an annual compliance review] by the 31st August 2008 [and do so at least annually thereafter]' but at a subsequent QAD cyclical visit conducted on 9 June 2016 it was found this matter had not been addressed.

040342

AUDIT REGISTRATION COMMITTEE

ORDER – 12 DECEMBER 2018

14. WSM Advisors Limited

WSM Advisors Limited, Connect House, 133-137 Alexandra Road, Wimbledon, London, SW19 7JY, has agreed to pay a regulatory penalty of £1,019.50 which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of audit regulations 2.03a and 2.11 in that the firm failed to ensure that a director held audit affiliate status since October 2016 and for failing to notify ICAEW of the director's appointment within 10 business days.

045718

ORDER – 12 DECEMBER 2018

15. Business Equilibrium Limited

Business Equilibrium Limited of 5 Straiton View, Straiton Business Parc, Edinburgh, EH20 9QZ, has agreed to pay a regulatory penalty of £2,700, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of ISQC1 and audit regulations 3.20 and 6.06 in that the firm failed to arrange for an external cold file review to be carried out at least once every three years since 2012 and for incorrectly completing its 2013 to 2018 annual returns.

046117

ORDER – 14 NOVEMBER 2018

16. KPMG LLP

KPMG LLP, 15 Canada Square, London, E14 5GL, has agreed to pay a regulatory penalty of £3,500, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of Audit Regulation 3.01, for making a loan in the form of disbursements made on an audit client's behalf, which were recovered from the audit client within six weeks, contrary to APB Ethical Standard 2 paragraph 23.

044018